

motor vehicle shall provide at the time of application for employment, the information specified in paragraph (c) of this section.

(b) All employers shall request the information specified in paragraph (c) of this section from all persons applying for employment as a commercial motor vehicle operator. The request shall be made at the time of application for employment.

(c) The following employment history information for the 10 years preceding the date the application is submitted shall be presented to the prospective employer by the applicant:

(1) A list of the names and addresses of the applicant's previous employers for which the applicant was an operator of a commercial motor vehicle;

(2) The dates the applicant was employed by these employers; and

(3) The reason for leaving such employment.

(d) The applicant shall certify that all information furnished is true and complete.

(e) An employer may require an applicant to provide additional information.

(f) Before an application is submitted, the employer shall inform the applicant that the information he/she provides in accordance with paragraph (c) of this section may be used, and the applicant's previous employers may be contacted for the purpose of investigating the applicant's work history.

§ 383.37 Employer responsibilities.

No employer may allow, require, permit, or authorize a driver to operate a CMV in the United States if he or she knows or should reasonably know that any of the following circumstances exist:

(a) During any period in which the driver does not have a current CLP or CDL or does not have a CLP or CDL with the proper class or endorsements. An employer may not use a driver to operate a CMV who violates any restriction on the driver's CLP or CDL.

(b) During any period in which the driver has a CLP or CDL disqualified by a State, has lost the right to operate a CMV in a State, or has been disqualified from operating a CMV.

(c) During any period in which the driver has more than one CLP or CDL.

(d) During any period in which the driver, or the CMV he/she is driving, or the motor carrier operation, is subject to an out-of-service order.

(e) In violation of a Federal, State, or local law or regulation pertaining to railroad-highway grade crossings.

[76 FR 26879, May 9, 2011, as amended at 78 FR 60231, Oct. 1, 2013]

Subpart D—Driver Disqualifications and Penalties

§ 383.51 Disqualification of drivers.

(a) *General.* (1) A person required to have a CLP or CDL who is disqualified must not drive a CMV.

(2) An employer must not knowingly allow, require, permit, or authorize a driver who is disqualified to drive a CMV.

(3) A holder of a CLP or CDL is subject to disqualification sanctions designated in paragraphs (b) and (c) of this section, if the holder drives a CMV or non-CMV and is convicted of the violations listed in those paragraphs.

(4) *Determining first and subsequent violations.* For purposes of determining first and subsequent violations of the offenses specified in this subpart, each conviction for any offense listed in Tables 1 through 4 to this section resulting from a separate incident, whether committed in a CMV or non-CMV, must be counted.

(5) The disqualification period must be in addition to any other previous periods of disqualification.

(6) *Reinstatement after lifetime disqualification.* A State may reinstate any driver disqualified for life for offenses described in paragraphs (b)(1) through (8) of this section (Table 1 to § 383.51) after 10 years, if that person has voluntarily entered and successfully completed an appropriate rehabilitation program approved by the State. Any person who has been reinstated in accordance with this provision and who is subsequently convicted of a disqualifying offense described in paragraphs (b)(1) through (8) of this section (Table 1 to § 383.51) must not be reinstated.

§ 383.51

49 CFR Ch. III (10–1–13 Edition)

(7) A foreign commercial driver is subject to disqualification under this subpart.

(b) *Disqualification for major offenses.* Table 1 to §383.51 contains a list of the

offenses and periods for which a person who is required to have a CLP or CDL is disqualified, depending upon the type of vehicle the driver is operating at the time of the violation, as follows:

TABLE 1 TO § 383.51

If a driver operates a motor vehicle and is convicted of:					
	For a first conviction or refusal to be tested while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a first conviction or refusal to be tested while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials as defined in §383.5, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for * * *
(1) Being under the influence of alcohol as prescribed by State law * * *.	1 year	1 year	3 years	Life	Life.
(2) Being under the influence of a controlled substance * * *.	1 year	1 year	3 years	Life	Life.
(3) Having an alcohol concentration of 0.04 or greater while operating a CMV * * *.	1 year	Not applicable ...	3 years	Life	Not applicable.
(4) Refusing to take an alcohol test as required by a State or jurisdiction under its implied consent laws or regulations as defined in §383.72 of this part * * *.	1 year	1 year	3 years	Life	Life.
(5) Leaving the scene of an accident * * *.	1 year	1 year	3 years	Life	Life.
(6) Using the vehicle to commit a felony, other than a felony described in paragraph (b)(9) of this table * * *.	1 year	1 year	3 years	Life	Life.
(7) Driving a CMV when, as a result of prior violations committed operating a CMV, the driver's CLP or CDL is revoked, suspended, or canceled, or the driver is disqualified from operating a CMV.	1 year	Not applicable ...	3 years	Life	Not applicable.
(8) Causing a fatality through the negligent operation of a CMV, including but not limited to the crimes of motor vehicle manslaughter, homicide by motor vehicle and negligent homicide.	1 year	Not applicable ...	3 years	Life	Not applicable.
(9) Using the vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance * * *.	Life-not eligible for 10-year reinstatement.	Life-not eligible for 10-year reinstatement.	Life-not eligible for 10-year reinstatement.	Life-not eligible for 10-year reinstatement.	Life-not eligible for 10-year reinstatement

Federal Motor Carrier Safety Administration, DOT

§ 383.51

(c) *Disqualification for serious traffic violations.* Table 2 to §383.51 contains a list of the offenses and the periods for which a person who is required to have a CLP or CDL is disqualified, depending upon the type of vehicle the driver is operating at the time of the violation, as follows:

TABLE 2 TO § 383.51

If the driver operates a motor vehicle and is convicted of:	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CLP or CDL holder's license or non-CMV driving privileges, for * * *	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CLP or CDL holder's license or non-CMV driving privileges, for * * *
(1) Speeding excessively, involving any speed of 24.1 kmph (15 mph) or more above the regulated or posted speed limit.	60 days	60 days	120 days	120 days.
(2) Driving recklessly, as defined by State or local law or regulation, including but, not limited to, offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property.	60 days	60 days	120 days	120 days.
(3) Making improper or erratic traffic lane changes.	60 days	60 days	120 days	120 days.
(4) Following the vehicle ahead too closely.	60 days	60 days	120 days	120 days.
(5) Violating State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal accident.	60 days	60 days	120 days	120 days.
(6) Driving a CMV without obtaining a CLP or CDL.	60 days	Not applicable	120 days	Not applicable.
(7) Driving a CMV without a CLP or CDL in the driver's possession ¹ .	60 days	Not applicable	120 days	Not applicable.
(8) Driving a CMV without the proper class of CLP or CDL and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.	60 days	Not applicable	120 days	Not applicable.
(9) Violating a State or local law or ordinance on motor vehicle traffic control prohibiting texting while driving a CMV. ² .	60 days	Not applicable	120 days	Not applicable.

TABLE 2 TO § 383.51—Continued

If the driver operates a motor vehicle and is convicted of:	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CLP or CDL holder's license or non-CMV driving privileges, for * * *	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CLP or CDL holder's license or non-CMV driving privileges, for * * *
(10) Violating a State or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a handheld mobile telephone while driving a CMV. ² .	60 days	Not applicable	120 days	Not applicable.

¹Any individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CLP or CDL on the date the citation was issued, shall not be guilty of this offense.

²*Driving, for the purpose of this disqualification*, means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary.

(d) *Disqualification for railroad-highway grade crossing offenses.* Table 3 to § 383.51 contains a list of the offenses and the periods for which a person who is required to have a CLP or CDL is disqualified, when the driver is operating a CMV at the time of the violation, as follows:

TABLE 3 TO § 383.51

If the driver is convicted of operating a CMV in violation of a Federal, State or local law because * * *.	For a first conviction a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *.	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *.	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *.
(1) The driver is not required to always stop, but fails to slow down and check that tracks are clear of an approaching train * * *.	No less than 60 days	No less than 120 days	No less than 1 year.
(2) The driver is not required to always stop, but fails to stop before reaching the crossing, if the tracks are not clear * * *.	No less than 60 days	No less than 120 days	No less than 1 year.
(3) The driver is always required to stop, but fails to stop before driving onto the crossing * * *.	No less than 60 days	No less than 120 days	No less than 1 year.
(4) The driver fails to have sufficient space to drive completely through the crossing without stopping * * *.	No less than 60 days	No less than 120 days	No less than 1 year.

TABLE 3 TO § 383.51—Continued

If the driver is convicted of operating a CMV in violation of a Federal, State or local law because * * *.	For a first conviction a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *.	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *.	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *.
(5) The driver fails to obey a traffic control device or the directions of an enforcement official at the crossing * * *.	No less than 60 days	No less than 120 days	No less than 1 year.
(6) The driver fails to negotiate a crossing because of insufficient undercarriage clearance * * *.	No less than 60 days	No less than 120 days	No less than 1 year.

(e) *Disqualification for violating out-of-service orders.* Table 4 to §383.51 contains a list of the offenses and periods for which a person who is required to have a CLP or CDL is disqualified when the driver is operating a CMV at the time of the violation, as follows:

TABLE 4 TO § 383.51

If the driver operates a CMV and is convicted of * * *.	For a first conviction while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *.	For a second conviction in a separate incident within a 10-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *.	For a third or subsequent conviction in a separate incident within a 10-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *.
(1) Violating a driver or vehicle out-of-service order while transporting nonhazardous materials.	No less than 180 days or more than 1 year.	No less than 2 years or more than 5 years.	No less than 3 years or more than 5 years.
(2) Violating a driver or vehicle out-of-service order while transporting hazardous materials as defined in §383.5, or while operating a vehicle designed to transport 16 or more passengers, including the driver.	No less than 180 days or more than 2 years.	No less than 3 years or more than 5 years.	No less than 3 years or more than 5 years.

[67 FR 49756, July 31, 2002, as amended at 68 FR 4396, Jan. 29, 2003; 72 FR 36787, July 5, 2007; 75 FR 59134, Sept. 27, 2010; 76 FR 26879, May 9, 2011; 76 FR 75486, Dec. 2, 2011; 77 FR 59825, Oct. 1, 2012; 78 FR 58479, Sept. 24, 2013; 78 FR 60231, Oct. 1, 2013]

§ 383.52 Disqualification of drivers determined to constitute an imminent hazard.

(a) The Assistant Administrator or his/her designee must disqualify from operating a CMV any driver whose driving is determined to constitute an imminent hazard, as defined in §383.5.

(b) The period of the disqualification may not exceed 30 days unless the FMCSA complies with the provisions of paragraph (c) of this section.

(c) The Assistant Administrator or his/her delegate may provide the driver an opportunity for a hearing after

issuing a disqualification for a period of 30 days or less. The Assistant Administrator or his/her delegate must provide the driver notice of a proposed disqualification period of more than 30 days and an opportunity for a hearing to present a defense to the proposed disqualification. A disqualification imposed under this paragraph may not exceed one year in duration. The driver, or a representative on his/her behalf, may file an appeal of the disqualification issued by the Assistant Administrator's delegate with the Assistant Administrator, Adjudications Counsel